where the circumstances suggest that the tenant is not a very stable character. It may well be, however, that the demand of several years' rent in advance cannot be justified on any such ground. At what point is the line to be drawn? I apprehend that one test may be that if the demand is obviously a device to get over some provision of the law, and not merely a *bona fide* attempt to prevent the landlord being deprived of the ability to recover his rent, the transaction may be scrutinised and be shown to be something other than what it is called."

It seems to me on the facts that the provision relating to the deposit in this case was not an obvious device to defeat the law.

It seems clear on the authorities that each case must be decided on its own facts and that the substance of the transaction must be regarded, not the name or label given to the payment. What in fact was the true nature and effect of the transaction even if, for example, the leases provided for the deposit of 24 months' rent in advance and payment of service charges as in this case?

I find that there has been no attempt to conceal the service charges in question or to exaggerate them and that the payment of the deposit which was agreed by the defendants was a reasonable precautionary measure adopted to ensure in the case of a new unit in a new building project which was being completed in different phases that tenants of the desired moral and financial calibre became available. It is pertinent to note that the leases provide for deduction from this deposit of the expenses of repairs to the premises so as to restore them to their original condition at the termination of the lease. It is not as if the plaintiffs had said, "Look, the rent you are going to pay is so much per month for rent and so much for a whole lot of fictitious services which I am not really providing or ever going to provide and in addition you are going to pay me a lump sum of $100,000. I am going to keep entirely silent about all these matters. I am only going to say in the lease that what you have done is just to agree to pay so much as rent." Then clearly all the matters which are not set out as terms of the lease will be clearly matters which would be regarded as premiums which should be disclosed by virtue of section 2 of the Premiums on Leases Act.

On the facts of the present case I do not find any such conduct on the part of the plaintiffs. The negotiations for the leases seem to have been conducted in a manner which can be described as being open and above-board so far as the plaintiffs are concerned. I can see no reason why I should, on the facts which reflect no credit on the defendants and their conduct, decide that a premium has been taken by the landlord in question and that therefore their claim for arrears due is not recoverable.

Before I conclude this judgment I should like to refer to the case of *Yat Yuen Hong, supra*, which was mentioned by both counsel. Mr. Smith for the defendants submitted that that case is a strong authority in his favour that the payment in question was a premium whereas Mr. Wee on behalf of the plaintiffs said that that case has no relevance to the point before me. I agree with Mr. Wee because, on a careful reading of the judgment of the Court of Appeal in that case, it does not seem to me that this question was ever argued in any way. In that case, it seems to have been regarded as a foregone conclusion that the payment in question to the tenant on giving up possession to the landlord was in fact a premium which should have been notified. So far as one can see, that case merely decided the meaning of the word "forthwith" occurring in the latter part of section 2 and whether there was then anyone representing the Minister to whom a written document containing the particulars required should have been presented for inspection forthwith.

I have come to the conclusion, in all the circumstances of this case, that the plaintiffs succeed in their contentions and that the defendants have failed to satisfy me that the claim for arrears as formulated in prayer 1 by the plaintiffs is unenforceable subject of course, to an appropriate reduction in respect of the supply of cool air from 1972 onwards to be decided in Chambers if the parties are unable to agree a figure in this respect.

Judgment will accordingly be entered as above on prayer 1 as well as in terms of prayer 2 for possession with effect from 31st March, 1974 and for mesne profits and costs as claimed.

Order accordingly.

Solicitors: *Lee, Woo & Partners; L. A. J. Smith.*

MARIMUTHU BALIKRISHNAN v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) April 3, 1974]
[Singapore — Magistrate's Appeal No. 217 of 1973]

Firearms and Ammunition (Unlawful Possession) Act (Cap. 100) s. 3 — Possession of firearm and of ammunition — Whether one offence or two distinct offences.

Criminal Law and Procedure — Sentences — When to run consecutively — Criminal Procedure Code (Cap. 113), s. 17.

In this case the appellant was convicted on 2 charges viz: (a) possession of a gun; and (b) possession of 5 rounds of ammunition in contravention of section 3 of the Firearms and Ammunition (Unlawful Possession) Act (Cap. 100). He was sentenced by the Senior District Judge to 3 years' imprisonment on each charge, the sentences to run consecutively. The facts which the appellant admitted and upon which he was convicted show that the appellant took out the gun and the 5 rounds from behind a television set and sold it to a police officer who was acting as 'agent provocateur' in the sale. The appellant was paid in marked notes and subsequently arrested and charged.

On appeal the main argument raised by counsel for the appellant was that having regard to the fact that the gun and bullets were kept in the same place there was in fact one offence only justifying one punishment and one sentence; and that the consecutive sentence was wrong in principle having regard to the fact that both offences were not distinct offences within the meaning of section 17 of the Criminal Procedure Code. Counsel for the respondent contended otherwise.

Held, dismissing the appeal: the consecutive sentence was not wrong in principle.

Case referred to:-

(1) *R. v. Faulkner* (1972) 56 Cr. App. R. 594; [1972] Crim. L.R. 577.

MAGISTRATE'S APPEAL.

Datuk David Marshall for the appellant.

Glen J. Knight (Deputy Public Prosecutor) for the respondent.

Wee Chong Jin C.J. (delivering oral judgment): So far as I am concerned I would adopt in the case of offences under the Firearms Act, possession of firearms and of ammunition, the broader approach that is referred to by the Chief Justice of England in the 1972 case, *John Alistair Faulkner*,[1] the first one cited to me, in considering whether or not having regard to these two offences, possession of firearms and of some rounds of ammunition, the aggregate sentence of 6 years, the effect of the consecutive sentence, was much too much. I do not think so. The fact that the District Court was limited by law, which is not the same as the maximum which is permissible under the Firearms Act itself, to imposing a term of imprisonment for 3 years in respect of each offence whether under the Firearms Act or under any other criminal law does not make it a sufficient ground for me to say that the sentence in this particular case, the consecutive sentence, was wrong in principle.

The appeal must be dismissed.

Appeal dismissed.

Solicitors: *David Marshall.*

LAW SOCIETY OF SINGAPORE v. V. K. S. NARAYANAN

[O.C.J. (Wee Chong Jin C.J., Winslow & Tan Ah Tah JJ.) July 4, 1974]

[Singapore — Originating Summons No. 104 of 1974]

Advocates & Solicitors — Disciplinary proceedings — Striking off the roll — Criminal offence — "a defect of character which makes him unfit for the profession" — Legal Profession Act (Cap. 217), s. 84(2)(a).

The respondent, an advocate and solicitor had been convicted on two charges under the Companies Act (Cap. 185) and was sentenced to a term of imprisonment. Disciplinary proceedings were commenced and he appeared before the Court to show cause why he should not be dealt with under section 84(2)(a) in that he had been convicted of a criminal offence, implying a defect of character which made him unfit for the profession.

Held: on the facts the respondent had acted dishonestly in relation to the transactions in question. The criminal offences of which he had been convicted implied "a defect of character which makes him unfit for the profession." Accordingly the respondent should be struck off the roll of advocates and solicitors.

ORIGINATING SUMMONS.

Sachi Saurajen for the applicants.

L. A. J. Smith for the respondent.

Wee Chong Jin C.J. (delivering oral judgment): The respondent is an advocate and solicitor of the Supreme Court. Last year he was charged and convicted on his guilty plea on two charges of offences under section 131 subsection (1) of the Companies Act and sentenced to a term of imprisonment in respect of each charge. Disciplinary proceedings were commenced and as a result he now appears before us to show cause why he should not be dealt with under section 84 of the Legal Profession Act, in particular section 84(2)(a) in that he had been convicted of a criminal offence, implying a defect of character which makes him unfit for the profession.

At the time of the commission of the two offences the respondent was the chairman of a limited liability company and in respect of one of the charges he was still holding a practising certificate but in respect of the other charge he had ceased to be in active practice. The two charges arose out of two transactions in which the company, of which he was the chairman of the board of directors, purchased two pieces of land. The transactions were substantial transactions. In relation thereto the undisputed facts disclosed that he had an interest in both of them in that he would receive substantial sums of money totalling approximately $140,000 and this amount would come from the purchase prices paid by the company. He knew that the vendor in respect of each transaction was prepared to sell at a price lower than the price which he had told the managing director of his company was the vendor's selling price. Part of the difference would go into his pocket. He did not disclose these facts to the board of directors at a board meeting. The Disciplinary Committee which investigated into the matter also rejected his evidence that he had earlier informed the managing director that he would be making a personal profit out of each of these two transactions.

In our judgment all these facts clearly show that he had acted dishonestly in relation to these two transactions. The criminal offences of which the respondent has been convicted clearly imply, in the words of section 84(2)(a) of the Legal Profession Act, "a defect of character which makes him unfit for the profession".

Before us, through his counsel, he has not sought to argue otherwise. We have been addressed only in mitigation. While there are some mitigating factors we do not consider suspension as provided under section 84 of the Legal Profession Act to be an appropriate order as our power of suspension is limited to a maximum period of two years. Accordingly we order that the respondent be struck off the roll and pay the costs of this application and of all the proceedings prior thereto.

Order accordingly.